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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/751,975	12/29/2000	Charles Elkins	V199-1933	9062

7590 04/22/2002
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EXAMINER

PRONE, JASON D

ART UNIT	PAPER NUMBER
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3724

DATE MAILED: 04/22/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/751,975

Applicant(s)

ELKINS ET AL.

Examiner

Jason Prone

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 December 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-2 and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by DeTorre.

DeTorre discloses the same invention including at least one splitting element (116) positioned along one of the pre-scored planes (Fig. 6), at least one torque inducing element (112) mechanically forcing the material onto the splitting element thereby breaking the material along the pre-scored plane (Fig. 6), a stabilizing element (114), and that the splitting element is block shaped (116).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 3 and 6-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over DeTorre in view of Duecker. DeTorre discloses the invention {listed above} but fails to disclose that the stabilizing element includes a plate member and a plurality of springs, a transport element with a plurality of wheels, and that at least one torque

moving element is a pneumatic lever. Duecker teaches a stabilizing element including a plate member (41) and a plurality of springs (44), a transport element (24) with a plurality of wheels (25), and that at least one torque moving element is a pneumatic lever (45) to DeTorre. Therefore, it would have been obvious to one skilled in the art, at the time of the invention, to have provided DeTorre with Duecker's stabilizing element to more efficiently hold the material, transport element to automatically move the material into position, and a pneumatic lever as a torque moving element to provide for alternate means to control the torque.

5. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over DeTorre in view of Chakrabarti et al. DeTorre discloses the invention {listed above} but fails to disclose that at least one splitting element is wedge shaped. Chakrabarti et al. teaches the use of a wedge shaped splitting element (Fig. 3) to DeTorre. Therefore, it would have been obvious to one skilled in the art, at the time of the invention, to have provided DeTorre with a wedge shaped splitting element to allow for a more precise edge.

6. Claims 9-11, 13-15 and 16-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over DeTorre in view of Duecker. DeTorre discloses the invention {listed above} but fails to disclose that the stabilizing element includes a plate member and a plurality of springs, a transport element with a plurality of wheels, that at least one torque moving element is a pneumatic lever, and that at least one splitting element is wedge shaped. Duecker teaches a stabilizing element including a plate member (41) and a plurality of springs (44), a transport element (24) with a plurality of wheels (25), and that at least one torque moving element is a pneumatic lever (45) to DeTorre.

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Since the apparatus has been disclosed, the method is inherent. Therefore, it would have been obvious to one skilled in the art, at the time of the invention, to have provided DeTorre with Duecker's stabilizing element to more efficiently hold the material, transport element to automatically move the material into position, and a pneumatic lever as a torque moving element to provide for alternate means to control the torque.

7. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over DeTorre in view of Chakrabarti et al. DeTorre discloses the invention {listed above} but fails to disclose that at least one splitting element is wedge shaped. Chakrabarti et al. teaches the use of a wedge shaped splitting element (Fig. 3) to DeTorre. Therefore, it would have been obvious to one skilled in the art, at the time of the invention, to have provided DeTorre with a wedge shaped splitting element to allow for a more precise edge

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Butler, Allaire et al., Oakley et al., Bando, Turner, Lisec, and Boguslavsky et al..

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason Prone whose telephone number is 703-605-4287. The examiner can normally be reached on 7:30-5:00, Mon - (every other) Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan N. Shoap can be reached on 703-308-1082. In lieu of mailing, it is encouraged that all formal responses be faxed to 703-872-9302.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

JR

JP
April 16, 2002

 M. Rachuba
Primary Examiner